

STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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TO: All Political Subdivisions

FROM: Micah G. Vincent, Commissioner *MGV*

RE: Transfers, Combinations, and Consolidations of Powers, Duties, Functions, or Resources

DATE: June 6, 2013

On May 11, 2013, Governor Mike Pence signed into law Senate Enrolled Act 459 ("SEA 459"), which introduced changes affecting IC 36-1-7-16 and IC 36-1-8-17, which govern certain inter-local and intra-unit combinations and reorganizations of functions, respectively. This memorandum addresses these changes, which take effect July 1, 2013. For information related to inter-local agreements for Public Safety Access Point ("PSAP") funding, please see the memorandum entitled "UPDATE to March 25, 2013 Memorandum Entitled, 'Emergency 911 & Public Safety Access Point ("PSAP") Funding.'" Please note that this memorandum is intended to be an informative bulletin; it is not a substitute for reading the law.

Section 2 of SEA 459 amends IC 36-1-7-16 so that if:

- (1) a political subdivision enters into an agreement with one or more other political subdivisions under IC 36-1-7 to transfer, combine, or share powers, duties, functions, or resources; and
- (2) the political subdivision realizes through the transfer, combination, or sharing of powers, duties, functions, or resources a:

- (A) savings; or
- (B) reduction in the reasonably foreseeable expenses that would otherwise have been incurred by the political subdivision if the transfer, combination, or sharing of powers, duties, functions, or resources had not taken place;

the political subdivision must specify in the agreement described above the amount (if any) of the decrease that the Department must make to the maximum permissible property tax levies, maximum permissible property tax rates, and budgets under IC 6-1.1-17 and IC 6-1.1-18.5 of the political subdivision to:

- (1) eliminate double taxation by different political subdivisions for services; or
- (2) eliminate any excess by which the amount of property taxes imposed by the political subdivision exceeds the amount necessary to pay for services.

The fiscal body of the political subdivision must determine and certify to the Department the amount of the adjustment (if any) to be made. The amount of the adjustment (if any) to be made must comply with the agreement under which the political subdivision transfers, combines, or shares powers, duties, functions, or resources.

In sum, this statute, as amended, now requires that a political subdivision that enters into an interlocal agreement with one or more other political subdivisions to transfer, combine, or share powers, duties, functions, or resources and that experiences a savings or reduction in expenses as a result must specify in that agreement the amount of the decrease the Department is to make in that political subdivision's budget, rates, and levies to eliminate double or excess taxation. The statute, as amended, no longer provides for a staggered reduction in the political subdivision's maximum levy.

Section 3 similarly amends IC 36-1-8-17. Here, when a political subdivision that:

- (1) combines or reorganizes a department, agency, or function of the political subdivision; and
- (2) realizes through the combination or reorganization a:

- (A) savings; or

- (B) reduction in the reasonably foreseeable expenses that would otherwise have been incurred by the political subdivision if the combination or reorganization had not taken place;

the fiscal body of the political subdivision must specify by resolution the amount (if any) of the decrease that the Department must make to its maximum permissible property tax levies, maximum permissible property tax rates, and budgets under IC 6-1.1-17 and IC 6-1.1-18.5 to:

- (1) eliminate double taxation by different political subdivisions for services; or
 - (2) eliminate any excess by which the amount of property taxes imposed by the political subdivision exceeds the amount necessary to pay for services.

The fiscal body of the political subdivision must determine and certify to the Department the amount of the adjustment (if any) to be made.

Any political subdivision that must, pursuant to IC 36-1-7-16 or IC 36-1-8-17, certify a maximum levy decrease amount to the Department must do so on or before September 1 of the year preceding the year in which the adjustment is to take effect. The political subdivision must provide the Department's Budget Division with all appropriate ordinances, agreements, and supporting documentation.

Contact Information

Questions may be directed to Staff Attorney Mike Duffy at 317-233-9219 or mduffy@dlgf.in.gov.